APPENDIX G:

Public Comments on the 2012 Integrated Report and Louisiana Department of Environmental Quality's Response to Comments

The following is a compilation of all comments received regarding the 2012 Integrated Report, along with LDEQ's response to those comments. No changes were made to the 2012 Integrated Report based on public comments.

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL SERVICES

PUBLIC COMMENTS RESPONSE SUMMARY

2012 INTEGRATED REPORT ON WATER QUALITY IN LOUISIANA:
SECTION 303(d) LIST

AGENCY INTEREST (AI) NO. 169294

March 7, 2012

The Louisiana Department of Environmental Quality (LDEQ) published a public notice of the draft 2012 Integrated Report (IR) on Water Quality in Louisiana: Section 303(d) List on January 25, 2012 in *The Town Talk, The Advocate, The Courier, The Advertiser, The American Press, The News-Star, The Times-Picayune, The Times* and on the LDEQ Public Participation Group, Public Notice webpage. During the public comment period, a request for an extension to the public comment period was received by LDEQ. The extension was denied due to the required deadline of April 1, 2012 for submittal of the final report to US Environmental Protection Agency (USEPA). The LDEQ received written comments on the draft IR/§303(d) List, by email and postal mail. The public comment period ended February 29, 2012.

The draft IR/§303(d) List was available for review on the LDEQ Website and on LDEQ's Electronic Document Management System.[1]

ISSUE #1

LDEQ Cannot Delist Nearshore Gulf Subsegments 120806, 070601, and 021102 for Dissolved Oxygen (DO)[23456]

LDEQ RESPONSE TO ISSUE #1

Despite statements made by numerous commentors, LDEQ readily acknowledges the existence of the Gulf hypoxic zone located largely outside of state territorial waters. LDEQ in no way denies the existence of the hypoxic zone with its 2012 Integrated Report. However, the data reviewed for these three coastal subsegments does not conclusively demonstrate that the subsegments were impaired during the time period covered by the 2012 IR assessments.

Development of TMDLs for the three coastal subsegments in question will not address the Gulf hypoxic zone. LDEQ knows that Gulf of Mexico hypoxia is an important issue of state and national significance and is addressing the issue through coordinated efforts with state and federal agencies including Coastal Protection and Restoration Authority, Louisiana Department of Agriculture and Forestry, Louisiana Department of Natural Resources, USEPA, US Geological Survey, US Corps of Engineers, National Oceanic and Atmospheric Administration,

US Department of Agriculture, Natural Resources Conservation Service and other Mississippi River basin states. LDEQ is a partner in the Gulf of Mexico Alliance and the Hypoxia Task Force with a strong commitment to address pollution resulting in Gulf of Mexico hypoxia. The hypoxic zone in the Gulf of Mexico results from significant (98%) input of nutrients from sources upstream of Louisiana. Developing Total Maximum Daily Loads (TMDLs) for the three Louisiana coastal subsegments will not address resolution of the basin-wide issue, specifically the input of nutrients from sources upstream of Louisiana.

LDEQ's commitment to address Gulf hypoxia through multi-agency and multi-state coordinated efforts supports and is consistent with *Louisiana's Comprehensive Master Plan for a Sustainable Coast* which established the *Gulf Hypoxia Action Plan 2008* as a solution to Gulf hypoxia.

ISSUE #2

The Mississippi and Atchafalaya Rivers, and nearshore coastal subsegments should be listed for dissolved oxygen and phosphorus and nitrate/nitrite impairment. [2356]

LDEQ RESPONSE TO ISSUE #2

LDEQ assessed both the Mississippi and Atchafalaya Rivers using routine ambient water quality monitoring data. Both water bodies were shown to be unimpaired by low DO. LDEQ is working with EPA on conducting a stressor-response study to provide additional information for the nutrient standards development processes and thereby gain a better understanding of nutrient levels that may cause impairments in Louisiana's waters. Until numeric nutrient standards are in place, it is not possible to accurately determine impairments associated with nutrients.

ISSUE #3

These water segments' impairments are exactly the kind of water quality problems that §303 was designed to address, and they must be included on Louisiana's §303(d) list.[2]

LDEQ RESPONSE TO ISSUE #3

The data reviewed for these three coastal subsegments does not conclusively demonstrate that the subsegments were impaired during the time period covered by the 2012 IR assessments.

ISSUE #4

LDEQ's refusal to grant Gulf Restoration Network (GRN) and Louisiana Environmental Action Network (LEAN) an extension of time to comment is arbitrary and capricious, a denial of due process and inconsistent with past practices.[2]

LDEQ RESPONSE TO ISSUE #4

In accordance with past practices of a 30-day comment period, GRN and LEAN were afforded the opportunity to comment from January 25, 2012 to February 29, 2012. The LDEQ has previously granted comment period extensions that did not impact the LDEQ's ability to meet the biennial April 1 due date for the submittal of the IR. In those cases, the biennial April 1 Clean Water Act due date for submittal of the §305(b) report and §303(d) list had already passed. In the case of the 2012 IR, granting of an extension would have resulted in LDEQ's failure to meet the Clean Water Act mandated April 1, 2012 due date. Consequently, the LDEQ denied the extension request.

ISSUE #5

The BP Oil Spill of 2010 yielded copious amounts of water quality data for the Louisiana coast. LPBF suggests mining those data sources for coastal dissolved oxygen data.[4]

LDEQ RESPONSE TO ISSUE #5

Dissolved oxygen data from the BP oil spill was not provided by LPBF during the data request period and LDEQ was not aware of its availability. The LDEQ requested that data be submitted during the 2012 IR data solicitation period of September 7, 2011 to October 12, 2011. If data is provided during the appropriate data solicitation period for the 2014 Integrated Report, LDEQ will be able to consider the data.

ISSUE #6

While Louisiana does not have a stratified dissolved oxygen criterion, Lake Pontchartrain Basin Foundation (LPBF) suggests utilizing federal criteria until Louisiana can produce its own. Simply because we currently do not have a state criterion is not a good reason to delist.[4]

LDEQ RESPONSE TO ISSUE #6

LDEQ's state dissolved oxygen criterion for the Gulf of Mexico is based on existing federal guidelines and criteria development procedures under §304 of the Clean Water Act. There are currently no federally promulgated stratified dissolved oxygen criteria for the Gulf. However, EPA initiated research efforts in February 2011 to establish stratified dissolved oxygen criteria for Louisiana's coastal waters. LDEQ will work with EPA to establish stratified criteria as appropriate. EPA's stratified dissolved oxygen criteria guidance for the Chesapeake Bay area and initiation of similar efforts for Gulf waters calls into question the accuracy of assessing against a single dissolved oxygen criterion throughout the entire water column.

ISSUE #7

While the percentage of impacted area within each subsegment was minimal (<10%) in 2008, this may not always be the case. Since the hypoxic zone is not yet shrinking, it is quite conceivable that the percentage of the subwatersheds that are impacted could increase.[4]

LDEQ RESPONSE TO ISSUE #7

The LDEQ will continue to review hypoxic zone data for future assessments; however, LDEQ must make its assessments based on the data available for the time frame covered by each IR.

ISSUE #8

It is correct that local TMDLs will probably not have an enormous impact on the hypoxic zone- that is also not a reason to delist. LPBF suggests that it could be stated somewhere within the §303(d) list or within the document that these impairments are related to Mississippi River Hypoxic Zone impacts.[4]

LDEQ RESPONSE TO ISSUE #8

LDEQ describes in the 2012 IR Rationale how the Mississippi River and upstream states are the primary source of nutrients causing the hypoxic zone. However, the data reviewed for these three coastal subsegments does not conclusively demonstrate that the subsegments were impaired during the time period covered by the 2012 IR assessments. LDEQ's commitment to address Gulf hypoxia through multi-agency and multi-state coordinated efforts supports and is consistent

with the *Louisiana's Comprehensive Master Plan for a Sustainable Coast* which established the *Gulf Hypoxia Action Plan 2008* as a solution to Gulf hypoxia.

ISSUE #9

LPBF has sampled gulf waters east of the Mississippi River for a few years and has documented seasonal hypoxic events near the Chandeleur Islands (near and around subsegment 070401). The reports can be found at http://www.saveourlake.org/coastal-resources.php under Chandeleur Island/Chandeleur Sound.[4]

LDEQ RESPONSE TO ISSUE #9

The data suggested by LPBF was not submitted during the 2012 IR data request period and LDEQ was not aware of its availability. The LDEQ requested that data be submitted during the 2012 IR data solicitation period of September 7, 2011 to October 12, 2011. If data is provided during the appropriate data solicitation period for the 2014 Integrated Report, LDEQ will be able to consider the data.

---

[1] EDMS stands for Electronic Document Management System, the LDEQ's electronic repository of official records that have been created or received by LDEQ. Employees and members of the public can search and retrieve documents stored in the EDMS via this web application. (See http://edms.deq.louisiana.gov/app/doc/querydef.aspx).
[2] Tulane Environmental Law Clinic on behalf of Gulf Restoration Network and Louisiana Environmental Action Network, received February 29, 2012
[3] R. Eugene Turner, PhD, received February 29, 2012
[4] Lake Pontchartrain Basin Foundation, received February 29, 2012
[5] Mississippi River Collaborative, received February 29, 2012
[6] 483 citizen e-mails containing a standard form letter based on Gulf Restoration Network Website call for comments, received between February 27, 2012 and February 29, 2012